



## FREEDOM IN THE WORLD 2020

# Germany

FREE

# 94

  
/100

<u>Political Rights</u>	39 /40
<u>Civil Liberties</u>	55 /60

## LAST YEAR'S SCORE &amp; STATUS

94 /100    **Free**

Global freedom statuses are calculated on a weighted scale. See the methodology.



# Overview

Germany is a representative democracy with a vibrant political culture and civil society. Political rights and civil liberties are largely assured both in law and practice. The political system is influenced by the country's totalitarian past, with constitutional safeguards designed to prevent authoritarian rule. Although Germany has generally been stable since the mid-20th century, political tensions have grown following an influx of asylum seekers into the country, and the growing popularity of a right-wing party.

## Key Developments in 2019

- Several cases of political violence shook Germany in 2019. In June, Walter Lübcke, a local CDU politician with a vocal proasylum stance, was shot by a right-wing extremist at his house in Hessen. In October, another right-wing extremist armed with explosives unsuccessfully attempted to attack a synagogue in Halle, and killed two bystanders in the process.
- The right-wing populist Alternative für Deutschland (AfD) posted a strong performance in several state elections, notably in the former German Democratic Republic (GDR).
- Following a ruling by the Federal Financial Court, several nongovernmental organizations (NGOs) lost their tax-exempt charitable status due to their political activism. While the verdict was seen as a threat to many NGOs, the Finance Ministry announced plans to reform relevant regulations so groups could keep their status.

## Political Rights

### A. Electoral Process

**A1** 0-4 pts

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**Was the current head of government or other chief national authority elected through free and fair elections?**

**4/4**

Germany's head of state is a largely ceremonial president, chosen by the Federal Convention, a body formed jointly by the Bundestag (Federal Parliament) and state representatives. The president can serve up to two five-year terms. Former foreign minister Frank-Walter Steinmeier of the Social Democratic Party (SPD) was elected president in early 2017.

The federal chancellor—the head of government—is elected by the Bundestag and usually serves for the duration of a legislative session. The chancellor's term can be cut short only if the Bundestag chooses a replacement in a so-called constructive vote of no confidence. Angela Merkel won a fourth term as chancellor following 2017 Bundestag elections, which were held in accordance with democratic standards. After negotiations of an unprecedented length, she formed a coalition government in 2018 between her center-right Christian Democratic Union (CDU), its Bavarian sister party, the Christian Social Union (CSU), and the center-left SPD. The current term is expected to be her last term in office.

**A2** 0-4 pts

**Were the current national legislative representatives elected through free and fair elections?**

**4/4**

The German constitution provides for a lower house of parliament, the Bundestag, as well as an upper house, the Bundesrat (Federal Council), which represents the country's 16 federal states. The Bundestag is elected at least every four years through a mixture of proportional representation and single-member districts, which can lead the number of seats to vary from the minimum of 598. The 2017 elections saw 709 representatives elected to the Bundestag. Election monitors from the Organization for Security and Co-operation in Europe (OSCE) deemed the elections transparent and free from manipulation.

Merkel's CDU-CSU won 246 seats. The SPD, the CDU-CSU's coalition partner in the last government, took 153 seats. Both parties posted their worst results since 1949. The liberal Free Democratic Party (FDP) reentered the Bundestag with 80 seats, and the Greens won 67. The far-left party the Left, widely viewed as a successor to the East German communists, took 69 seats. The right-wing populist Alternative for Germany (AfD) entered the Bundestag for the first time in its history, taking 94 seats, posting particularly strong results in the former German Democratic Republic (GDR).

In Germany's federal system, state governments have considerable authority over matters such as education, policing, taxation, and spending. State governments appoint Bundesrat members, and in this manner can influence national policies. Four state elections took place in 2019, in Bremen, Brandenburg, Saxony, and Thuringia. The three latter elections saw strong gains of the AfD, leading to difficult coalition negotiations. In Thuringia, the 24 percent received by the AfD rendered most coalition options impossible, and could result in a minority government.

### A3 0-4 pts

**Are the electoral laws and framework fair, and are they implemented impartially by the relevant election management bodies?**

**4/4**

Germany's electoral laws and framework are fair and impartial. A failure to reform the problem of so-called overhang seats led to an inflated number of Bundestag members following the 2017 elections: German voters cast two ballots—one for a candidate in their constituency and another for a party, with the latter vote determining the total number of seats a party will hold in the Bundestag. If a party wins more seats in the first vote than are permitted by results of the second, it gets to keep these “overhang” seats. The extra seats are costly, and in the past have been deemed unconstitutional for allowing a party more seats than it is formally allotted. With 709 members, Germany now has the world's second-largest national parliament, after China.

## B. Political Pluralism and Participation

**B1** 0-4 pts

**Do the people have the right to organize in different political parties or other competitive political groupings of their choice, and is the system free of undue obstacles to the rise and fall of these competing parties or groupings?**

**4/4**

The dominant political parties have traditionally been the SPD and the CDU-CSU, although other parties have increased their support in recent years. Parties do not face undue restrictions on registration or operation, although under electoral laws that, for historical reasons, are intended to restrict the far left and far right, a party must receive either 5 percent of the national vote or win at least three directly elected seats to gain representation in the parliament. The constitution makes it possible to ban political parties, although a party must be judged to pose a threat to democracy for a ban to be legal, and no party has been successfully banned since 1956. More recently, in 2017 the Federal Constitutional Court found the extreme-right National Democratic Party (NPD) to be unconstitutional, but ruled that it did not pose a great enough threat to merit a ban.

Support for the AfD has risen in recent years, as the party has moved further to the right of the political spectrum. As of 2019, the party is represented in the Bundestag, as well as in all state parliaments. While the increase in popularity has shaken the German political system, most parties oppose the AfD and rule out coalitions that involve the party.

**B2** 0-4 pts

**Is there a realistic opportunity for the opposition to increase its support or gain power through elections?**

**4/4**

While German government is very much consensus oriented, opposition parties have a realistic opportunity to increase their support and gain power through elections. Merkel, during her time as chancellor, has changed her coalition partners a number of times.

**B3** 0-4 pts

<b>Are the people's political choices free from domination by forces that are external to the political sphere, or by political forces that employ extrapolitical means?</b>	<b>4/4</b>
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The German government is democratically accountable to the voters, who are free to throw their support behind their preferred candidates and parties without undue influence on their political choices.

**B4** 0-4 pts

<b>Do various segments of the population (including ethnic, religious, gender, LGBT, and other relevant groups) have full political rights and electoral opportunities?</b>	<b>3/4</b>
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Germany's constitution gives all citizens age 18 or older the right to vote, and this guarantee applies regardless of gender, ethnicity, religion, sexual orientation, or gender identity. However, some groups are underrepresented in politics. The 2017 federal elections saw a decrease in the representation of women in the Bundestag, down to 30.9 percent, the lowest number since 1998. In the Bundestag, 8 percent of members are from immigrant backgrounds, having at least one parent who was born without German citizenship.

Nearly eight million foreign-born residents were unable to vote in the 2017 federal elections, due in part to restrictive citizenship and voting laws. In order to gain German citizenship, residents must renounce the citizenship of their home countries, which contributes to low rates of naturalization and large numbers of long-term residents who cannot vote in federal elections.

# C. Functioning of Government

**C1** 0-4 pts

**Do the freely elected head of government and national legislative representatives determine the policies of the government?**

**4/4**

Democratically elected representatives decide and implement policy without undue interference.

**C2** 0-4 pts

**Are safeguards against official corruption strong and effective?**

**4/4**

Germany generally has strong and effective safeguards against corruption. However, the regulatory framework on lobbying members of parliament is considered inadequate by Transparency International's German office. For example, there is no central lobbying register in Germany. The Council of Europe's Group of States against Corruption (GRECO) regularly criticizes Germany for a lack of transparency in the financing of political parties and also for a lack of lobbying regulations.

In the fall of 2019, Transparency International Germany criticized Infrastructure and Transport Minister Andreas Scheuer for dubious irregularities in his handling of a tolling program for German motorways. Separately, a 2019 parliamentary inquiry looked into allegations of corruption in the context of surcharges by external consultants at the Defense Ministry.

Whistleblower protection in Germany is likely to improve after the EU Whistleblower Protection Directive was passed in April 2019.

**C3** 0-4 pts

**Does the government operate with openness and transparency?**

**4/4**

The government is held accountable for its performance through open parliamentary debates, which are covered widely in the media. In June 2018, the government introduced question time, in which the chancellor answers questions from the parliament three times per year.

In 2019, the government published its second National Action Plan, which detailed initiatives designed to improve transparency and encourage citizen involvement in government, although watchdogs criticized the plan for not being ambitious enough.

## Civil Liberties

### D. Freedom of Expression and Belief

**D1** 0-4 pts

Are there free and independent media?	4/4
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Freedom of expression is enshrined in the constitution, and the media are largely free and independent. Hate speech, such as racist agitation or antisemitism, is punishable by law. It is also illegal to advocate for Nazism, deny the Holocaust, or glorify the ideology of Hitler.

Journalists face increasing harassment and abuse, especially via social media. According to the European Center for Press and Media Freedom (ECPMF), in 2018, 26 physical attacks on journalists took place in Germany, 22 of which were politically motivated. In May, Reporters Without Borders (RSF) issued a warning about a draft law published by the Interior Ministry, which could enable law enforcement and intelligence agencies to hack into web servers and computers used by newsrooms and journalists.

**D2** 0-4 pts



**Are individuals free to practice and express their religious faith or nonbelief in public and private?**

**3/4**

Freedom of belief is legally protected. However, eight states have passed laws prohibiting schoolteachers from wearing headscarves, while Berlin and the state of Hesse have adopted legislation banning headscarves for civil servants.

In October 2019, a man armed with explosives unsuccessfully attempted to enter a synagogue on Yom Kippur. While failing to enter the synagogue, the attacker killed two bystanders. The attack was widely seen as an expression of growing antisemitism within Germany. Already earlier in 2019, the German Jewish Council noted growing antisemitism, and the federal commissioner against antisemitism warned Jews against wearing a kippa in some public places in order to avoid harassment or attack.

Islamophobia remains a concern. The results of a Bertelsmann Foundation survey released in late 2019 found that more than half of respondents saw Islam as a threat to German society. In 2018 there were more than 800 attacks on mosques or Muslim citizens, according to the Interior Ministry.

**D3** 0-4 pts

**Is there academic freedom, and is the educational system free from extensive political indoctrination?**

**4/4**

Academic freedom is generally respected, though legal prohibitions on extremist speech are enforceable in school and university settings. Instances in which student protesters have blocked professors and guests from lecturing have prompted debates about freedom of expression on campuses.

**D4** 0-4 pts

**Are individuals free to express their personal views on political or other sensitive topics without fear of surveillance or retribution?**

**3/4**

Private discussion and internet access are generally unrestricted, but recent developments have prompted concern about government surveillance of private communications. In 2017, the Bundestag passed a law allowing state security services to use spyware to conduct surveillance of encrypted online messaging services like WhatsApp when conducting criminal investigations. In January 2018, the controversial Network Enforcement Act came into full effect. The law compels social media companies to delete content deemed to clearly constitute illegal hate speech within 24 hours of being reported, and content that appears to be illegal hate speech within seven days. RSF claims that to comply with the law, social media platforms including Facebook, YouTube, and Twitter have removed thousands of posts that should not be considered hate speech.

Watchdogs continue to express concern about a controversial 2015 data retention law that requires telecommunications companies to store users' telephone and internet data for 10 weeks. Critics view the law as a threat not only to general privacy but also to whistleblowers, who could be punished under a section detailing illegal data handling. After the law was suspended and found to be incompatible with European Union (EU) law by several German courts, the case against it will now be heard at the European Court of Justice.

In recent surveys, a majority of Germans said they are careful when stating their opinion in public due to fear of repercussions. This fear is said to be especially linked to topics surrounding migration.

## E. Associational and Organizational Rights

**E1** 0-4 pts

Is there freedom of assembly?	4/4
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The right to peaceful assembly is enshrined in the German constitution and is generally respected in practice, except in the case of outlawed groups, such as those advocating Nazism or opposing democratic order.

**E2** 0-4 pts

**Is there freedom for nongovernmental organizations, particularly those that are engaged in human rights– and governance-related work?**

**4/4**

Germany has a vibrant sphere of NGOs and associations, which operate freely. However, in 2019, several NGOs were stripped of their tax-exempt status as charitable organizations after the Federal Financial Court ruled that they took part in political partisanship. The verdicts could endanger the status of thousands of charitable organizations, and finance minister Olaf Scholz has vowed to reform the respective laws to address the issue.

**E3** 0-4 pts

**Is there freedom for trade unions and similar professional or labor organizations?**

**4/4**

Trade unions, farmers' groups, and business confederations are generally free to organize, and play an important role in shaping Germany's economic model.

## F. Rule of Law

**F1** 0-4 pts

**Is there an independent judiciary?**

**4/4**

The judiciary is independent, and generally enforces the rights provided by Germany's laws and constitution.

**F2** 0-4 pts

**Does due process prevail in civil and criminal matters?****4/4**

The rule of law prevails in Germany. Civil and criminal matters are treated according to legal provisions and with due process. However, courts can authorize “preventive detention” practices, by which a person who was convicted of certain violent crimes can be detained after serving their sentence in full if they are deemed to pose a danger to the public. The European Court of Justice in May 2019 ruled that German prosecutors are not allowed to issue European arrest warrants; the judges found German prosecutors to be too dependent on the justice minister of their respective states.

In 2019, the state governments of Hessen, Saxony, and Lower Saxony adopted laws that increased the surveillance powers of law enforcement. State parliaments in Bavaria and North Rhine-Westphalia already passed similar laws, but these went further than the 2019 laws and have been criticized for enabling police to take preemptive action if they believe there is an “impending danger,” a vaguely defined term that critics assert could make the law vulnerable to abuse.

**F3** 0-4 pts**Is there protection from the illegitimate use of physical force and freedom from war and insurgencies?****3/4**

In June, Walter Lübcke, a local politician and member of the CDU, was assassinated at his home in Hessen by a far-right extremist. The murder shocked the political establishment and prompted debate about whether the government is doing enough to fight right-wing extremism. Lübcke’s name had appeared on a death list circulated online among right-wing extremists, and several other politicians received death threats following the murder. Some links were established between right-wing groups and members of the military and police force, in particularly in relation to threats.

Attacks on refugees and refugee housing continued to decline from a peak of 3,500 in 2016. In the first half of 2019, around 600 such attacks were reported. The threat

posed by terrorist groups to national and regional security remained a significant concern in 2019, especially after the attempted attack on the synagogue in Halle.

**F4** 0-4 pts

**Do laws, policies, and practices guarantee equal treatment of various segments of the population?**

**3/4**

The constitution and other laws guarantee equality and prohibit discrimination on the basis of origin, gender, religion or belief, disability, age, or sexual orientation. However, a number of obstacles stand in the way of equal treatment of all segments of the population. Rhetoric against refugees remained prominent in the German public sphere in 2019.

In 2018, restrictive new asylum and migration policies were passed, which include building camps along Germany's international borders to hold asylum seekers, and deporting any asylum seeker who had previously applied for asylum in another EU country. The implementation of these policies in practice thus far has been slow.

## G. Personal Autonomy and Individual Rights

**G1** 0-4 pts

**Do individuals enjoy freedom of movement, including the ability to change their place of residence, employment, or education?**

**4/4**

Freedom of movement is legally protected and generally respected, although the refugee crisis and security concerns related to activity by the Islamic State (IS) militant group have led to some restrictions on travel. In 2015, the government introduced legislation allowing the confiscation of identity documents from German citizens suspected of terrorism as a way to prevent them from traveling abroad, particularly to Iraq and Syria.

**G2** 0-4 pts

**Are individuals able to exercise the right to own property and establish private businesses without undue interference from state or nonstate actors?**

**4/4**

The rights to own property and engage in commercial activity are respected. In 2019, in Berlin, several activists and political parties proposed the nationalization of parts of the housing stock. Following an intense debate, the Berlin State senate instituted a rent freeze October, rather than nationalization.

**G3** 0-4 pts

**Do individuals enjoy personal social freedoms, including choice of marriage partner and size of family, protection from domestic violence, and control over appearance?**

**4/4**

The government generally does not restrict social freedoms. Women's rights are protected under antidiscrimination laws. However, a considerable gender wage gap persists, with women earning approximately 22 percent less in gross wages than men. A law requiring large German companies to reserve at least 30 percent of seats on their nonexecutive boards for women came into effect in 2016, but affects a limited number of companies. Adoption and tax legislation passed in 2014 gave equal rights to same-sex couples in these areas. The government legalized same-sex marriage in 2017.

In 2019, a Nazi-era law banning doctors from providing information on or advertising abortion services was reformed. Now, clinics and doctors may state that they offer abortions, but a ban on providing further information on the procedure was maintained. Human-rights campaigners criticized the reform for not going far enough.

**G4** 0-4 pts

**Do individuals enjoy equality of opportunity and freedom from economic**

**3/4**

**exploitation?**

According to the US State Department's 2019 *Trafficking in Persons* report, migrants from Eastern Europe, Africa, and Asia are targeted for sex trafficking and forced labor. Asylum seekers, especially unaccompanied minors, are also particularly vulnerable to exploitation.

**On Germany**

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*Country Facts*

## Global Freedom Score

**94/100** Free

## Internet Freedom Score

**80/100** Free*Other Years*

2019

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